

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PSC’S MOTION FOR A PROTECTIVE ORDER REGARDING REGARDING
PREMIER ORTHOPAEDIC AND SPORTS MEDICINE ASSOCIATES OF SOUTHERN
NEW JERSEY, LLC’S NOTICES OF DEPOSITION BY
WRITTEN QUESTION [ECF NO. 2333]**

The Plaintiffs’ Steering Committee (PSC), pursuant to Fed. R. Civ. P. 26, asks that this Court order that certain depositions by written questions noticed by Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC and other Defendants (collectively referred to as “Premier”) be conducted orally.

On October 15, 2015, Premier filed a Notice of Filing of Notices of Deposition by Written Questions (Dkt. 2333). Attached to that filing were deposition notices, subpoenas, and written questions served, pursuant to Fed. R. Civ. P. 31 and 30(b)(6), upon ten different surgery centers (“third-party medical providers and entities”) that were customers of NECC at least until 2012. Each deposition notice sets forth twenty-one questions that contain multiple subparts that each deponent’s corporate representative(s) must answer. The questions concern the non-parties’ research, evaluation and selection of NECC as a supplier of compounded drugs. *See, e.g.*, Deposition by Written Questions of Central Jersey Orthopedics Specialists, P.C. (Ex. 1). All ten sets of these deposition questions are identical. Pursuant to Rule 31, Plaintiffs are required to submit cross questions within fourteen days after receiving the notices.

The topics of the depositions are technical and complex, and thus wholly unsuited to deposition by written question. Depositions regarding these same topics necessitate thorough, nuanced, and detailed cross-examination, which cannot occur via written question. The PSC

requests the Court enter a protective order prohibiting Premier from proceeding with the written depositions as noticed and requiring instead that these depositions be taken orally.

In further support of their motion, the PSC has filed their Memorandum in Support of the PSC's Motion for a Protective Order Regarding Premier Orthopaedic and Sports Medicine Associates Of Southern New Jersey, LLC's Notices Of Deposition By Written Questions. In order to avoid unduly prejudicing the Plaintiffs, the PSC respectfully requests that the Court enter an order requiring that the third-party medical providers be deposed orally.

Dated: October 29, 2015

Respectfully submitted,

By: /s O. MARK ZAMORA

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Plaintiffs' Steering Committee

CERTIFICATE OF COMPLIANCE WITH RULE 26 AND L.R. 7.1(a)(2)

I, MARK ZAMORA hereby certify that prior to the filing of this Motion, the Plaintiffs' Steering Committee met and conferred in good faith with counsel for the Premier Defendants, Chris Wolk and Jay Blumberg. The parties were unable to reach an agreement, thus necessitating this Motion.

Dated: October 29, 2015.

/s/ O. MARK ZAMORA
O. MARK ZAMORA

CERTIFICATE OF SERVICE

I, O. Mark Zamora hereby certify that I caused a copy of the above to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: October 29, 2015.

/s/ O. Mark Zamora
O. Mark Zamora